

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: BAIR HUGGER FORCED AIR
WARMING DEVICES PRODUCTS
LIABILITY LITIGATION

MDL No. 15-2666 (JNE/FLN)

This Document Relates To:
All Actions

**SECOND DECLARATION OF
BENJAMIN W. HULSE IN SUPPORT
OF DEFENDANTS' MOTION TO
EXCLUDE PLAINTIFFS' GENERAL
CAUSATION MEDICAL EXPERTS**

Benjamin W. Hulse, being first duly sworn, deposes and declares:

I am an attorney at the law firm of Blackwell Burke P.A., and one of the attorneys representing 3M Company and Arizant Healthcare Inc. (together, "Defendants") in this litigation. I submit this declaration in support of Defendants' Reply to Motion to Exclude Plaintiffs' General Causation Medical Experts. Unless otherwise stated, the facts set forth herein are based upon my personal knowledge, information, and belief.

1. Attached as Defendants' Exhibit 25 is a true and correct copy of additional excerpts from the deposition of Plaintiffs' expert Jonathan Samet, M.D.
2. Attached as Defendants' Exhibit 26 is a true and correct copy of additional excerpts from the deposition of Plaintiffs' expert Michael J. Stonnington, M.D.
3. Attached as Defendants' Exhibit 27 is a true and correct copy of Exhibit 11 from the deposition of Dr. Scott Augustine, an unpublished simulated experiment analysis.

4. Attached as Defendants' Exhibit 28 is a true and correct copy of additional excerpts from the deposition of Mark Albrecht.

5. Attached as Defendants' Exhibit 29 is a true and correct copy of Exhibit 31 from the deposition of Mark Albrecht, which is an email from Mark Albrecht to Mike Reed, dated July 9, 2010, identified as Nachtsheim_0000838.

6. Attached as Defendants' Exhibit 30 is a true and correct copy of Editors of the Lancet, "Retraction - Ileal-lymphoid-nodular hyperplasia, non-specific colitis, and pervasive developmental disorder in children," 375 *Lancet* 445 (2010).

7. Attached as Defendants' Exhibit 31 is a true and correct copy of excerpts from the deposition of Paul McGovern.

8. Attached as Defendants' Exhibit 32 is a true and correct copy of additional excerpts from the deposition of Michael R. Reed.

9. Attached as Defendants' Exhibit 33 is a true and correct copy of Exhibit 12 from the deposition of Mark Albrecht, which is an email from Mark Albrecht to Mike Reed, dated May 27, 2012, identified as Albrecht_0003579.

10. Attached as Defendants' Exhibit 34 is a true and correct copy of additional excerpts from the deposition of Jonathan Borak.

11. Attached as Defendants' Exhibit 35 is a true and correct copy of A. Sprowson et al., "Changing antibiotic prophylaxis for primary joint arthroplasty affects postoperative complication rates and bacterial spectrum," 11 *Surgeon* 20 (2013).

12. Attached as Defendants' Exhibit 36 is a true and correct copy of S.K. Khan et al., "Reduced short-term complications and mortality following Enhanced Recovery

primary hip and knee arthroplasty: results from 6,000 consecutive procedures," 85.1 *Acta Orthopaedica* 26 (2014).

13. Attached as Defendants' Exhibit 37 is a true and correct copy of excerpts from Exhibit 7A from the deposition of Paul McGovern, which consists of drafts of the McGovern study.

14. Attached as Defendants' Exhibit 38 is a true and correct copy of Exhibit 28 from the deposition of Mark Albrecht, which consists of emails from Paul McGovern to Mark Albrecht, dated February 16 to February 22, 2011, identified as Nachtsheim_0000238.

15. Attached as Defendants' Exhibit 39 is a true and correct copy of Exhibit 29 from the deposition of Mark Albrecht, which is an outline of a BHS presentation with comments and revisions, identified as Nachtsheim_0000251.

16. Attached as Defendants' Exhibit 40 is a true and correct copy of Exhibit 30 from the deposition of Mark Albrecht, which is an email from Mark Albrecht to David Leaper, dated January 23, 2010, identified as Litchy_0000002.

17. Attached as Defendants' Exhibit 41 is a true and correct copy of a 7/24/2012 FDA Warning Letter to Scott Augustine.

18. Attached as Defendants' Exhibit 42 is a true and correct copy of a 12/10/2012 FDA Letter to Scott Augustine (highlighting is in the original produced by Augustine).

19. Attached as Defendants' Exhibit 43 is a true and correct copy of additional excerpts from the deposition of William Jarvis.

20. Attached as Defendants' Exhibit 44 is a true and correct copy of Ramsay et al., "Interrupted Time Series Designs in Health Technology Assessment: Lessons from Two Systematic Reviews of Behavior Change Strategies," 19(4) *Int. J. Tech. Assess. Health Care* 613 (2003).

21. Attached as Defendants' Exhibit 45 is a true and correct copy of an excerpt from the expert report of Richard P. Wenzel, M.D., M.Sc.

22. Attached as Defendants' Exhibit 46 is a true and correct copy of R. Refaie, "Prevention of Periprosthetic Joint Infection," 3(3) *J. Trauma & Orthopedics* 50 (Sept. 2015).

23. Attached as Defendants' Exhibit 47 is a true and correct copy of Scott D. Augustine, "Forced-air warming discontinued: periprosthetic joint infection rates drop," 9(2):6998 *Orthop. Rev.* 39, 40-41 (2017).

24. Attached as Defendants' Exhibit 48 is a true and correct copy of an affidavit from Dr. Jonathan Singer of South Nassau Communities Hospital, dated September 29, 2017.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Minneapolis, Minnesota, this 17th day of October, 2017.

s/Benjamin W. Hulse
Benjamin W. Hulse